

Opening comments to Senate Standing Committee on Legal and Constitutional Affairs Inquiry into the Provisions of the Northern Territory Emergency Response Bill 2007 and Associated Bills

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Thank you very much Senator Chair, I would like to say that while I am the Director of CAEPR the views I express are mine alone and not of any of my colleagues or staff. I am also appearing as an adviser to Oxfam Australia, for whom I prepared the submitted report on reforms to land tenure and permit arrangements.¹

What we have before us is a hastily conceived and enormously complex but intertwined set of laws that will establish a fundamentally new and unprecedented policy framework for addressing undeniable social problems experienced by many of 40,000 Indigenous people in prescribed communities in the Northern Territory.

As someone who has worked in the area of Indigenous policy, mainly in the NT, over the past 30 years I am deeply concerned that this hastily conceived Emergency Response may prove unworkable because of lack of Commonwealth capacity to deliver. Some unnecessary and racially discriminatory measures will generate legal challenge, transactions costs and delays. Worst of all, some measures will result in perverse policy outcomes that will exacerbate community dysfunction and related problems of child abuse, rather than ameliorating them. New policy with the best intentions will invariably generate some unintended negative consequences, but in the situation before us, it is especially worrying that some of these can be predicted prior to their implementation.

Clearly in the limited time available I cannot outline all of my concerns, and so will highlight just a few.

In the Oxfam Report it is argued that land rights reform and the partial removal of the permit system are both unnecessary measures that are unrelated to child abuse; I will just note now that the issue of compulsory acquisition of leases and the construction of assets on people's land that they will not own at lease expiry will leave a planning and real estate contestation nightmare. Disputation over just terms compensation should be avoided by appointing independent arbiters of negotiated fair compensation, rather than allowing the 'take it or leave it' adversarial approach currently proposed.

The welfare law reforms are especially worrying, and I draw the Committee's attention to recently research by Professor David Ribar, an American economist currently visiting the ANU, who notes that in the USA measures to control the spending of welfare benefits has had a high cost and limited benefits. In particular he highlights the issues of fixed establishment costs and diseconomies of small scale in the proposed Australian measures: in the USA such measures are applied to 26.7 million people, in Australia we are talking initially of 30-40,000 Indigenous people in 73 dispersed communities.

These welfare reforms are also non-discretionary for Indigenous people and hence discriminatory when compared to the general population: it is assumed that all Indigenous parents who are welfare recipients are feckless spenders whose incomes must be quarantined and controlled. At the very least, on grounds of equity with the broader community, we must amend the proposed laws here—we should assume that all Indigenous parents are good parents and allow welfare authorities the discretion to quarantine payments only if the opposite proves to be the case—as with other Australians from 1 July next year.

On perverse outcomes there are many likely, most driven by the belated proposed abolition of the CDEP scheme that is targeting the most productive area of communities. This one measure will turn 7,500 employed workers into trainees and work-for-the-dole participants. Only an optimistic estimated 2,000 will eventually gain mainstream employment in home communities. The abolition of CDEP will place many community enterprises—including community stores and currently viable businesses—in immediate financial jeopardy. It will see the collapse of outstation resource agencies and the possible influx of up to 10,000 residents of 560 outstations into already overcrowded townships. And CDEP abolition will see enhanced passivity that many argue is at the heart of dysfunction. This measure must be urgently reconsidered.

Nearly \$600 million have been committed to the NT emergency intervention this year, a financial commitment of an appropriate scale. But how much of this is committed to bricks and mortar, to practical, as distinct to process, measures that will see the immediate building of houses, schools, medical facilities, youth centres, aged accommodation in communities where the latest 2006 census data show there are between 12 and 14 persons per house on average!

It is likely that an influx of outsiders to undertake a host of identified tasks will not only undermine local employment opportunity, but will also place additional strain on already strained housing and infrastructure!

The suite of measures we are considering seem to be an extreme over-reaction to what is an undeniable and deeply embedded problem in NT Indigenous communities and elsewhere in Indigenous and non-Indigenous Australia. Too much of what is being proposed is based on blind faith that it will work, but no mechanism has been proposed to independently assess if these interventions will succeed. Recent Commonwealth experience from the COAG trial site at Wadeye in the NT suggests that such monitoring is crucially important!

One cannot help feeling that at a different point in the electoral cycle a far more measured approach would be taken. Despite the current rhetoric of bipartisanship, I suspect that whoever forms the next federal government will look to walk away from this massive planned intervention, and the legacy will be another failed and costly experiment in Indigenous policy.

There is another way possible: empower and work with communities; support what is working and build on it; address the deep backlogs that are a result of past policy, not Indigenous, failure; and learn from international experience where there has been much more success than here. Elsewhere I have suggested that sustainable outcomes will require an investment of between \$4–5 billion over 5 years and the building of an economic base at remote communities.² But such multi-year financial commitments and philosophies of sustainability in community enterprise, ownership and governance, as distinct from external control of communities, are all unfortunately absent from what is being proposed.

NOTES

1. 'The 'National Emergency' and Land Rights Reform: Separating fact from fiction' by Jon Altman, CAEPR Topical Issue No.12/2007, available at <www.anu.edu.au/caepr/topical.php#0751>.
1. 'Stabilise, normalise and exit = \$4 billion' by Jon Altman, CAEPR Topical Issue No.9/2007, available at <www.anu.edu.au/caepr/topical.php#0748>.